

DISAPPEARANCE OF WITNESSES' OWN WORDS

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Abstract: This paper discusses the characteristics of prosecutor's language that would appear in the prosecution witness's answers during direct examination. I performed a linguistic comparison of the language that is used in a witness's answers against that of five relevant documents, which include a prosecutor's opening statement, a prosecutor's final statement, 11 samples of suspect's statements from the handbook for investigating officers and one from witness's personal letters. I would like to argue that as the witness's answer had the features of a prosecutor's language as well as written language, the prosecutor's ten meetings with the witness immediately before the trial may have possibly influenced not only the witness's language but also the content of the testimony itself. The analysis of this paper is based upon my expert witness opinion that was submitted to the Tokyo High Court and Japanese Supreme Court for the case in question.

検察側証人の証言に表出した検察官用語についての考察

本報告は、被告人が無罪を主張している傷害致死事件における検察側証人の証言の言語分析である。同証人は、実行犯で刑が確定して服役中であるが、公判直前に検察官が10回面会をしており、自分の取調の時とは異なる証言をしていた。そこで、主尋問の証言と、検察官の冒頭陳述と論告、『新捜査書類全集：取調』から供述調書の7例、同証人の私信一通を比較すると、同証人の証言に検察官特有の言語的特徴や書記言語の特徴もあることが明らかになった。このことから、検察官による公判直前の面会が証人のことばのみならず証言内容にも影響をあたえた可能性もあることが考えられる。本報告は、東京高裁と最高裁に提出した傷害致死事件の検察側証人の証言の言語分析の意見書に基づいたものである。

ZNIKANIE SŁÓW ŚWIADKÓW

Abstrakt: Artykuł dotyczy języka używanego przez prokuratorów, który pojawia się w zeznaniach świadków w trakcie przesłuchania na sali sądowej. Autorka dokonała porównania języka użytego przez świadka i języka użytego przez prokuratora (m.in. w mowie oskarżyciela). Będąc biegłym sądowym, powołanym do dokonania analizy języka użytego przez świadka, autorka wyciąga wnioski, że z dużym prawdopodobieństwem wpływ na język, jakim posługiwał się świadek miały spotkania z prokuratorem, które odbyły się tuż przed rozprawą. Język świadka zawierał cechy języka prokuratora oraz cechy języka pisanego, które pokrywają się z konstrukcjami zawartymi w analizowanych dokumentach.

1 Introduction

In this paper I selected one Japanese criminal case of complicity, and I would like to show that the characteristics of a prosecutors' language are found in the answers of a prosecutor's witness during direct examination. The defendant of this case pleaded not guilty to a charge of aiding or abetting a crime of bodily harm that resulted in death. This case was put to a lay judge trial. I was present at the first trial from 7 to 15 November 2011. Before I discuss this case, I will introduce the Japanese lay judge system, which was implemented in 2004.

2 Japanese Lay Judge System

The Japanese lay judge system is a hybrid of the Common law jury system and Roman law lay judge system. Like the Common law juries, Japanese lay judges serve only a term of a single case. However, unlike the jury system of Common law countries, Japanese lay judges deliberate the case together with (an)other judge(s). The deliberation body is composed of three judges and six lay judges. Not all cases are deliberated under this hybrid system; only criminal cases composed of serious offences are subjected to this new system. Defendants indicted on serious offences cannot choose the traditional court-judge system.

The Lay Judge Act is the result of a compromise between judges and lawyers. As Japan in the past had a jury system, lawyers aimed to implement a jury system as part of a Judicial Reform, but judges indicated a reluctance to allow the participation of lay people in court proceedings. These two parties have argued and defended their views since 2001, and they finally reached a compromise.

Let me elaborate on the characteristics of the Japanese lay judge system. First, lay judges render a verdict in discussion with the other judges. Secondly, the judges and lay judges render a sentence upon a defendant. Lastly, it is not prohibited for lay judges to discuss the case before the conclusion of a trial. The presiding judge frequently declares multiple adjournments of fifteen minutes during a trial to help the lay judges understand what is being deliberated in the trial and thus the panel of professional and lay judges discusses the case between sessions.

Japanese criminal justice prosecutors are not required to disclose all of the evidence that they have collected. However, under the lay judge system, if the defense discloses their defense at a pre-trial conference, they can claim that the prosecutors should disclose to the defense all of the evidence that is relevant to the content of their defense. Some lawyers advocate this disclosure because it is a positive and progressive aspect of the lay judge system. However, in the case of aiding and abetting under consideration this partial disclosure of evidence worked against the defendant.

The Code of the Lay Judge Court prohibits both parties from presenting new evidence at a trial, which was not requested to be examined at a pre-trial conference. As a result, in a pre-trial conference, a defender tries to request as much evidence as possible for examination. The defender's request for an examination of the evidence provides the

prosecution with a good understanding of the defender's strategy ahead of time, so that they can prepare countermeasures before the trial. Revealing the defender's strategy beforehand had a poor effect on the case of aiding and abetting.

3 The Overview of the Case

The following is an overview of the case. A male "F" was found dead in a car that was submerged in an irrigation reservoir in Gunma, Japan, in July of 2009. Five acquaintances of the victim (A, B, C, D and E) were arrested on charges of bodily harm resulting in the death and disposing of a dead body. Three of them (A, B and C), who admitted to carrying out the crime, were given sentences of eight, nine and ten years respectively. However, the other two (D and E) denied any involvement in the crime. D had his indictment suspended. E was charged as a joint principal in the conspiracy. Although E pleaded not guilty to the crime, she was sentenced to nine years of imprisonment by the district court in November of 2010. Defendant E appealed to the Tokyo High Court, which was dismissed in March of 2010. The defendant then raised a final application to the Japanese Supreme Court.

The main issue in this case was whether Defendant E conspired with three others (A, B, and C) to assault the victim. At a pre-trial conference of Defendant E, a defense lawyer argued how incredible were the three witnesses' statements, specifically the three perpetrators' statements against Defendant E, so that the defense could collect from the prosecutors some evidence that might contradict those statements. However, the defender's statement provided the prosecutors with an opportunity to learn the defenders' strategy ahead of time. It seems that the prosecution worked out the countermeasures against the defense before the trial took place. In order to inculcate the prosecutor's story into the witnesses, the prosecutors visited all three witnesses who were serving their time in prison. Each witness was interviewed ten times before the start of this trial. At the trial of Defendant E the three witnesses A, B and C gave their statements against her, which were different from the previous statements given during their investigation for their own trials six months earlier. It could be said that the visitation by the prosecution had worked out most effectively.

I would like to select one witness and focus on his testimony for some linguistic analyses. This witness, B, previously had a relationship with the Defendant E. During an interview with this witness, the prosecutor told him that the defendant had offered him a stimulant drug in the kitchen with the intent to arouse him to attack Victim F. The witness was therefore in full resentment of her. At the trial, Witness B was clearly transfixed upon her with anger when he came into the courtroom to take the witness stand.

4 Linguistic Issues

4.1 Forensic Linguistics

Forensic Linguistics is a relatively new field, and a term that was coined by Jan Svartvik when he wrote *The Evans Statement* in 1968. In November of 1949 Timothy Evans was arrested for the murder of his wife and infant daughter. His trial started in January of 1950. As the prosecution was able to obtain his written confession during the investigation, Evans received a death sentence and was put to death in March of the same year. Three years after Evans's execution, John Christie was arrested for the murder of four women including his wife. During his trial, Christie confessed that he had murdered Evans's wife, which brought a heated debate over Evans's execution. Svartvik made a corpus analysis of Evans's written confession and found that there were two different grammatical styles: educated style (investigating officer) and casual style (Evans). He concluded that Evans's written statement lacked credibility.

I would like to introduce several forensic linguistic analyses in the context of professional language features such as peculiar word usage, preciseness, repetition, and some features of written language.

4.1.1 Usage of Words

Another pioneering case in forensic linguistics is the Bentley case, which is a matter of attempted burglary. Derek Bentley (age 19) was executed for the murder of a police officer in 1953. Although the actual murderer was Chris Craig (age 16), he was not given the death penalty because of his age at the time of his arrest. Bentley's IQ was far below average and he was near illiterate. Coulthard analyzed Bentley's confession statement in which he acknowledged complicity in a burglary attempt and argued that Bentley personally did not make a confession to the police. Coulthard (1994) showed that parts of Bentley's statements were made up of the language of the investigating officers, by using a corpus analysis of the term 'then'.

(1) Frequency of 'then'

Coulthard discovered that a frequent use of the term 'then' is a salient feature of Bentley's confession. Coulthard thought that it was not typical for the word 'then' to occur ten times in the 582 words of Bentley's confession. Coulthard collected two corpora of data: The first was the corpora of 930 words of the three witnesses from different cases; The other was 2,270 words of three police officers who were involved in different cases. Coulthard contrasted the first witness's corpora against the police officer's corpora and discovered that there was only one occurrence of 'then' in the witness's corpora whereas 'then' occurred as many as 29 times in the police officer's corpora. Coulthard furthermore found, by using the Corpus Spoken English, which is a subset of the COBUILD Birmingham Collection of English text (BCET), in which 'then' occurred only 3,164 times in the entire corpora of 1.5 million words, that 'then' occurred seldom in ordinary people's usage.

(2) The location of 'then'

Another salient feature of Bentley's statement is an occurrence of the postpositioning of 'then'. Postpositioning 'then' means that 'then' is placed after the subject, as in the following two examples from Bentley's statement. On the other hand, the positioning of 'then' before the subject, i.e., 'Then, Chris jumped over and I followed.' would be a more common usage than 'Chris then jumped over and I followed.' in ordinary spoken language.

Chris then jumped over and I followed.

Chris then climbed up the drainpipe to the roof and I followed.

Although Bentley used a postpositioning 'then' seven times out of 582 words, none of the three witnesses used any postpositioning then' in their testimony with the 930 words. On the other hand, there were nine occurrences of postpositioning 'then' in the corpora of 2,270 words of the three police officers. More surprisingly, there were only nine occurrences of postpositioning 'then' in the BCET data containing 165,000 words. Coulthard concluded that postpositioning 'then' was the policeman's unique register. This indicates that the confession language was not Bentley's but that of an investigating officer.

4.1.2 Accuracy

Fox (1993) also demonstrated the characteristics of written statements from the grammatical features of police speech, by using a corpora of ordinary people and police officers. Here, I would like to introduce some features relating to time.

(1) Time

Investigating officers give actual times as in 'at 5:12 p.m.' and 'at approximately 3:45 p.m.'. This is because police officers are meticulous about time, unlike ordinary people in ordinary paths of life.

(2) Adverbials of Time

Adverbials of time such as *later*, *later on*, *later the same day*, *at this time*, and *after this* occur more frequently in a police officer's register than in the COBUILD corpus (ordinary people). More interestingly, these adverbials of time are placed at the beginning of a sentence in a police officer's register.

(3) Adverbial Clauses of Time

Adverbial clauses of time are frequently used and precede the main clause, as in the following example.

When he had finished raping her he then threw her out of the van.

Investigating officers can effectively specify the sequence of events, by using time-related expressions at the correct positions.

4.1.3 Repetition

Coulthard (1994:420) demonstrated that a suspect named Power had simply retold the same events, by using the same words in his confession statement, as shown hereunder. It is not typical for a defendant to retell the same events by using the same words, because memory is not normally stored in a verbal form. Each retelling requires a re-coding in the verbal form, which creates slight differences each time. Retelling the same events in the same words would be rather more possible if the police officer collaborates with a suspect in taking a statement.

and then he told Richard to give me one as well
and then told Richard to give me one as well

4.1.4 Written Language

The following is from an example of Coulthard (1994:35), which was presented in court by the police as a verbatim record of a dictated statement. The suspect denied saying the following part, which is completely an admission of guilt.

I wish to make a further statement explaining my complete involvement in the hijacking of
the Ford Escort van from John Smith on Tuesday 28 March 1981 on behalf of the A.B.C.
which was later used in the murder of three person (sic) in Avon that night.

Malcolm showed that the above example was not the suspect's verbatim record, by using lexical density (lexical term per clause). The typical lexical density of ordinary spoken language is between 1.5 and 2, while that of ordinary written language is between 3 and 6. More formal language has a higher lexical density. The lexical density of the above example is 8.3, which is higher than that of ordinary written language, and much higher than that of ordinary spoken language.

Investigating officers use their professional language when they write a statement. As we have seen, some characteristic features are the frequency of 'then', the location of 'then', accurate time-related expressions, and the location of adverbial phrases or adverbial clauses relating to time. All of these features are necessary to give specific information on a crime for the purpose of indictment. On the other hand, ordinary people do not use such features when they speak. These professional features can be considered as traces of typical police language when they appear in a statement of confession which is claimed by the police to be a verbatim record of a suspect's confession.

In the next section I would like to discuss the occurrence of prosecutor's language in the answers of witnesses for the prosecution. I will show the analysis of Witness B's statement in terms of professional language features and written language features.

4.2 Forensic Linguistic Analysis of Witness B's Statement

4.2.1 Professional Language Features

Japanese police officers and prosecutors also use their professional language features when they enter the suspect's statement on record. These professional features include the use of a demonstrative pronoun (*sono* (its, the)), prepositions (*ni taishite* (towards) and *tame* (for)), and the past progressive form, which help statements to gain great precision. First, I would like to show how these features are used in a suspect's statement that is written by an investigating officer, citing examples from a handbook for investigating officers (*Shin Sousa Shorui Zenshuu (A New Complete Work of Investigating Documents: Interrogation)*). Afterwards, I will show examples with the same features that appeared in Witness B's testimony.

4.2.1.1 Handbook Examples

1) *Sono* (the)

Constituents of a sentence are frequently omitted in the Japanese language, and more frequently in spoken language, when the speaker believes that the hearer knows or can understand the context of a situation, as shown by the following examples.

Anata wa ashita eiga ni ikimasu ka? ~~Anata wa ashita eiga ni ikimasu ka?~~
(Are you going to the movie tomorrow? ~~Are you going to the movie tomorrow?~~)

The example sentences hereunder are from the handbook. 'My' of 'my internet' and 'her' are omitted because these demonstrative pronouns are recoverable from the context. On the contrary, 'the' of 'URL' or 'picture' is not deleted because the demonstrative pronoun 'the' clarifies 'the URL' and 'the picture' in question. This is how the handbook educates investigating officers why not to omit the demonstrative pronoun relating to the key notion.

internet no homepage ni kouhyou shi, atode sono URL to kaijo key wo
mail de okurukara, jibun de sono gazou wo sakujo shiro
(As I would make Mayu's picture open to (my) internet homepage and send (her) the URL
and cancel-key by mail, I was telling Mayu to delete the picture by herself...)

、、、真由の画像をインターネットのホームページに公表し、後でそのURLと
解除キーをメールで送るから、自分でその画像を削除しろと真由に伝えていたの
で、、、(p.68)

2) *Ni taishite* (towards)

'Ni taishite (towards)' is a preposition that is commonly used in formal written Japanese. 'Ni taishite' is used in the handbook. One could simply say 'Mayu ni (to Mayu)' instead of 'Mayu ni taishite (towards Mayu)'.

Mayu ni taishite mail wo okuri tsudukete imashita
(I kept sending mails towards Mayu.)
真由に対してメールを送り続けていました。(p.67)

3) *Tame* (for, for the sake of)

‘Tame (for the sake of)’ is not a preposition that is mainly used in written language. Again, in the handbook, ‘tame’ is used in the example sentence given below. The usage of ‘tame’ is redundant and the sentence would be more natural without ‘tame (for the sake of)’ - ‘.

sono youna hataraki wo shite morau tame no sharei toshite
(in reward for the sake of providing such a service for us)
そのような働きをしてもらための謝礼として (p.262)

4) *-te imashita* (was doing) Past Progressive Form

The past progressive form frequently appears in a suspect’s statement. This is because police officers or prosecutors are required to describe the crime scene vividly so that the judges can process a good image of the crime. Other examples of ‘*-te imashita* (was doing)’ are from the example sentence above for ‘*ni taishite*’: ‘*okuri tsudukete imashita* (kept sending)’. Its shortened form ‘*-te ita*’, ‘*tsutaete ita* (was telling)’ is also found in the example sentence for ‘*sono*’.

uso wo tsuite imashita
(I was telling lies.)
嘘をついていました。(p.101)

4.2.1.2 Witness B’s Examples

In this section I would like to discuss professional language features that appeared in B’s testimony. In (1), the witness avoided omitting the demonstrative noun ‘*sono* (its)’ and pronoun ‘E’. Also, the witness used ‘*ni taishite* (towards)’ and ‘*yobi*’ (call). I will return to the usage of ‘*yobi*’ in section 4.2.3 Repetition. The usage indicates features of professional written language, which we just reviewed in the examples from the handbook. If the witness had used ordinary spoken language, sentence (1) would become sentence (2), in which noun phrases are omitted because they are recoverable from the context, and formal written expressions like ‘*ni taishite* (towards)’ are not used.

(1) E ga, sono musuko ga nagurareta koto ni taishite hara wo tate, onaji youna me ni awaseyouto aite no oya to ko wo yobi. E no ie ni yobidashimashita.

(E got angry in regard to (the fact that) that son (her son) was beaten and called the other party’s parent and (his) son and called out to E’s house to do same to them.)

Eが、その息子が殴られたことに対して腹を立て、同じような目に遭わせようと相手

の親と子を呼び、Eの家に呼び出しました。

(2) E ga, musuko ga nagurareta koto ni hara wo tate, onaji youna me ni awaseyouto aite no oya to ko wo ie ni yobidashimashita.

(E got angry in regard to (the fact that) that son (her son) was beaten and called the other party's parent and (his) son and called out to E's house to do same to them.)

Eが、息子が殴られたことに腹を立て、同じような目に遭わせようと相手の親と子を家に呼び出しました。

'Tame' is found in B's testimony. 'Tame' in sentence (3) can be replaced with subordinate conjunctions like 'node' (as). It is more natural to use 'node' than 'tame'. On the other hand, 'tame' in sentence (4) means 'for the sake of'. I would like to note that the past progressive form of 'te-ita' is also used in (4).

(3) Seki yakkyoku ni Z no kuruma ga tomatte-ita tame, Hokuryou Koko ni henkou to narimashita.

(As Z's car was parked in the parking lot of Seki drug store, we came to change the place to Hokuryo High School.)

セキ薬局にZの車が止まっていたため、北陵航行に変更となりました。

(4) C no sei ni suru tame desu.

(It is for the purpose of blaming C.)

Cのせいにするためです。

Now look at the past progressive form 'kuwaesasete-imashita' (was casing) in sentence (5). This usage of the past progressive form describes the crime scene where Defendant E ordered A to attack F physically and A was physically attacking F for a time.

(5) Sore ni hara wo tateta E ga A wo tsukatte F ni boukou wo kuwae sasete imashita.
(E who got angry with it was causing violence to F, using A.)

それに腹を立てたEがAを使って力Fに暴行を加えさせていました。

4.2.1.3. Prosecutor's Examples

These four features (*sono*, *ni taishite*, *tame*, *te-ita*) are also found both in the prosecutor's opening and closing statements.

1) *Sono* (the, its, her) demonstrative pronoun

Example (6) is from the opening statement. Sentence (7) is from the closing statement. 'Sono' is used to make a specific reference to the defendant's daughter and corpus of the victim.

- (6) Hikokunin no musume no G, sono kousai aite no H
(the defendant's daughter G, her boyfriend H)
被告人の娘のG、その交際相手のH

- (7) Sono shitai wo suteta koto ni nanra kanyo shite inai.
(I have nothing to do with that they threw the corpus.)
その死体を捨てたことに何ら関与していない。

2) *Ni taishite* (towards)

Sentence (8) is from the opening statement and (9) is from the closing statement. '*Ni taishite*' is also found in (10).

- (8) Kore wo kiita hikokunin mo F san ni taishite gekido shimashita.
(The defendant who heard about this was enraged with (towards) Mr. F.)
これを聞いた被告人もFさんに対して激怒しました。

- (9) A ya B ga F san ni taishite hageshii boukou wo kuwaeta.
(A and B caused violence towards Mr. F.)
AやBがFさんに対して激しい暴行を加えた。

3) *Tame* (for, for the purpose of)

Sentence (10) is from the opening statement and sentence (11) is from the closing statement. The usage of (10) is more natural than that of (11) because the usage of 'tame no' (for the purpose of) in (11) is redundant.

- (10) F san ni hageshii boukou wo kuwaeru tame ni, kyouhansha wo atsume....
(...recruiting accomplices in order to cause violence to Mr. F)
Fさんに激しい暴行を加えるために、共犯者を集め・・・

- (11) Hikokunin wa kyouhanshara wo jitaku ni yobidashite F san ni boukou wo kuwaeru tame no kyouki wo watashi...
(The defendant called out accomplices to her house and handed over weapons for the purpose of causing violence to Mr. F ...)
被告人は共犯者らを自宅に呼び出してFさんに暴行を加えるための凶器を渡し・・・

4) *-te imashita* (was doing) Past Progressive Form

The past progressive form is used in both (12) from the opening statement and (13) from the final statement. Both examples indicate a description of some on-going events.

- (12) A wa ... F san no yousu wo mite imashita.
 (A was watching the condition of Mr. F.)
 Aは、・・・ Fさんの様子を見ていました。
- (13) ~ to hanashite imashita.
 (was talking with ~)
 ~と話していました。

It is clear that these four features are used in the professional language of investigating officers. Now I would like to demonstrate that these four features are not a register of the witness but those of the investigating officers. I have counted the number of these four features in five different discourses: a witness's letter to the defendant's daughter's boyfriend; the testimony of the witness in court; 11 samples of the suspect's statement from the handbook; the prosecutor's opening statement of this case, and the prosecutor's closing statement of this case. None of these features (*sono*, *ni taishite*, *tame*, and *te-imashita*) were used in the witness's personal letter. On the other hand, these features *are* found in the discourse of the prosecutor or the police officer. Therefore, the use of these features in testimony indicates that the witness used the language of the prosecutor.

	<i>sono</i>	<i>ni taishite</i>	<i>tame</i>	<i>te imashita</i>
Personal letter (3,323 letters)	0	0	0	0
Testimony (4,730 letters)	4	10	13	40
Suspect's statement (42,917 letters)	76	11	43	73
Opening statement (10,839 letters)	8	3	8	16
Closing Statement (12,117 letters)	16	15	20	3

4.2.1.4. Written Language Features

Written language is more complex than spoken language (Halliday 1989). Academic writing, which develops one theme with its every part contributing to the main line of argument without digressions, includes linguistic characteristics of noun-based phrases, subordinate clauses/embeddings, complement clauses, sequences of prepositional phrases, participles, passive verbs, lexical density, lexical complexity, nominalization, and attributive adjectives (Gillett et al 2009). Among them, I would like to discuss noun-based phrases.

(1) Location of Modifiers

One example that was found in the direct examination is a modification of noun phrases: a relative clause (noun + post modifier). A relative clause is used to give additional information without having another sentence. Unlike the English language, the Japanese language does not use a relative pronoun. The relative clause (*Sore ni hara wo tateta* (got angry with it)) in sentence (14) directly modifies the noun phrase (E). In this example, the relative clause (*Sore ni hara wo tateta* (got angry with it)) comes before the noun phrase (E), which requires the process of reading back. This is because relative clauses are predominantly used in written language. In spoken language, it is more common to express this using two sentences as in (15). Therefore, the witness's statement (14) is a peculiar response to the questions of a prosecutor.

- (14) Sore ni hara wo tateta E ga A wo tsukatte F ni boukou wo kuwae sasete imashita
(E who got angry with it was causing violence to F, using A.)

それに腹を立てた E が A を使って F に暴行を加えさせていました。

- (15) E wa sore ni hara wo tatete, A wo tsukatte F ni boukou wo kuwae sasete imashita.
(E got angry with it and was causing violence to F, using A.)

E はそれに腹を立てて、A を使って F に暴行を加えさせていました。

4.2.1.5. Repetition

Coulthard (1994:414-5) states that it is a common misconception that people can remember verbatim what they and others have said and that what people remember is rather the gist of what was said. This means that slight differences occur at each retelling.

The witness said in court on 10 November 2010 about what had occurred from 3 to 4 July, 2009. However, the witness retold the same event using the same words, as shown in sentences (16) to (18). Also, I would like to add that sentence (1) has two usages of 'yobi'. Not only 'yobi' but also 'boukou wo kuwaeru' (cause violence) was frequently used, as shown in (5) and (14). 'Boukou wo kuwaeru' was predominantly used by the prosecutor when they read the opening and closing statements, as given in (9), (10), and (11). These indicate that the witness retold the same events using the same words which may have been used by the prosecutor in the interviews that were conducted in prison.

- (16) E から呼ばれたからです。

E kara yobareta kara desu.

(It was because I was called out by E.)

- (17) E から電話があつて呼ばれました。

E kara denwa ga ate yobaremashita.

(I was called up by telephone by E.)

(18) Eさんに呼ばれました。

E san ni yobaremashita.

(I was called out by Ms. E.)

5. Conclusion

Witness B answered a direct question, using an investigating officer's register, which included the frequent use of *sono*, *ni taishite*, *tame*, *te-imashita*, and written language features, and repetition, which are not found in an ordinary person's spoken language. These features are more required features when prosecutors place a suspect's statement on record. This is because prosecutors prepare a precisely expressed statement. Because the features of Witness B's statement are very similar to those of a prosecutor's professional language, the prosecutor may well have repeated his own story over and over during his ten interviews with Witness B in prison.

In Japanese criminal justice, prosecutors are not required to disclose all of the evidence that they have collected. However, defense lawyers can claim that prosecutors should disclose evidence that is relevant to their defense at a pre-trial conference under the lay judge system. This allows for the prosecutors to gain a fairly good understanding of the defense's strategy, for which case they can prepare. In this case, it is likely that the prosecutors inculcated their own story into the witnesses in prison during the ten meetings that occurred just before the start of the trial of Defendant E.

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